

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION

|                                  |   |                            |
|----------------------------------|---|----------------------------|
| MARY WALKER,                     | ) | Case No. ED CV 13-2001-DFM |
| Plaintiff,                       | ) |                            |
| v.                               | ) | MEMORANDUM OPINION AND     |
|                                  | ) | ORDER                      |
| CAROLYN W. COLVIN, Acting        | ) |                            |
| Commissioner of Social Security, | ) |                            |
| Defendant.                       | ) |                            |

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Plaintiff Mary Walker ("Plaintiff") appeals the denial of her application for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). The Court concludes that the Administrative Law Judge ("ALJ") offered specific and legitimate reasons for rejecting the opinion of her treating physician. Therefore, the ALJ's decision is affirmed.

**I.**

**FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiff filed applications for DIB and SSI on February 8, 2010, alleging disability beginning October 30, 2009. In an unfavorable decision, the ALJ found that Plaintiff had the severe impairments of obesity, well-controlled

1 diabetes mellitus, right-shoulder impingement that had required two  
2 arthroscopic surgeries, and degenerative disc disease of the spine, consistent  
3 with age. Administrative Record (“AR”) 12-13. The ALJ concluded, however,  
4 that Plaintiff was not disabled because there was work available in significant  
5 numbers in the national and regional economies that she could perform. AR  
6 21-22.

## 7 II.

### 8 ISSUES PRESENTED

9 The parties dispute whether the ALJ erred in assessing the opinion of  
10 Plaintiff’s treating physician, Dr. Rajiv Puri. See Joint Stipulation (“JS”) at 3.

## 11 III.

### 12 STANDARD OF REVIEW

13 Under 42 U.S.C. § 405(g), a district court may review the  
14 Commissioner’s decision to deny benefits. The ALJ’s findings and decision  
15 should be upheld if they are free from legal error and are supported by  
16 substantial evidence based on the record as a whole. 42 U.S.C. § 405(g);  
17 Richardson v. Perales, 402 U.S. 389, 401 (1971); Parra v. Astrue, 481 F.3d  
18 742, 746 (9th Cir. 2007). Substantial evidence means such relevant evidence as  
19 a reasonable person might accept as adequate to support a conclusion.  
20 Richardson, 402 U.S. at 401; Lingenfelter v. Astrue, 504 F.3d 1028, 1035 (9th  
21 Cir. 2007). It is more than a scintilla, but less than a preponderance.  
22 Lingenfelter, 504 F.3d at 1035 (citing Robbins v. Soc. Sec. Admin., 466 F.3d  
23 880, 882 (9th Cir. 2006)). To determine whether substantial evidence supports  
24 a finding, the reviewing court “must review the administrative record as a  
25 whole, weighing both the evidence that supports and the evidence that detracts  
26 from the Commissioner’s conclusion.” Reddick v. Chater, 157 F.3d 715, 720  
27 (9th Cir. 1996). “If the evidence can reasonably support either affirming or  
28 reversing,” the reviewing court “may not substitute its judgment” for that of

1 the Commissioner. Id. at 720-21.

2 **IV.**

3 **THE ALJ PROPERLY CONSIDERED THE OPINION OF**  
4 **PLAINTIFF'S TREATING PHYSICIAN**

5 Plaintiff contends that the ALJ failed to provide specific and legitimate  
6 reasons supported by substantial evidence for not giving controlling weight to  
7 Dr. Puri's opinion as expressed in a December 2010 medical source statement.  
8 JS at 4-5.

9 **A. Background**

10 Plaintiff saw Dr. Puri in October 2008 for right-shoulder pain. AR 682.  
11 He performed arthroscopic surgery on her right shoulder in October 2008 and,  
12 when symptoms returned, again in November 2010. AR 672-75. He discharged  
13 Plaintiff from his care in March 2011. AR 728.

14 On December 1, 2010, Dr. Puri completed a medical source statement.  
15 AR 685-86. He indicated that Plaintiff could lift less than 10 pounds  
16 occasionally, noting recurrent impingement syndrome in her right shoulder  
17 and her right-shoulder surgery the previous month. AR 685. Dr. Puri opined  
18 that Plaintiff could stand and walk for only one hour in an eight-hour workday  
19 because of leg radiculopathy that began following a spinal tap. Id. She did not,  
20 however, need an assistive device. Id. Dr. Puri indicated that Plaintiff could sit  
21 for only two hours in an eight-hour workday and should alternate standing and  
22 sitting because of her back pain and radiculopathy. Id. He opined that Plaintiff  
23 should never climb, balance, stoop, kneel, crouch, or crawl. AR 686. She  
24 should never reach and only occasionally handle and finger with her right  
25 hand but could do all of these things frequently with her left hand. Id. She  
26 could feel with all fingertips frequently. Id. She had no restrictions with respect  
27 to heights, moving machinery, temperatures, chemicals, or dust. Id. Dr. Puri  
28 indicated that her prognosis was poor. Id.

1 **B. Applicable Law**

2 Three types of physicians may offer opinions in Social Security cases:  
3 those who directly treated the plaintiff, those who examined but did not treat  
4 the plaintiff, and those who did not treat or examine the plaintiff. See 20  
5 C.F.R. § 416.927(c)(2); Lester v. Chater, 81 F.3d 821, 830 (9th Cir. 1996). A  
6 treating physician's opinion is generally entitled to more weight than that of an  
7 examining physician, which is generally entitled to more weight than that of a  
8 non-examining physician. Lester, 81 F.3d at 830. Thus, when a treating  
9 doctor's opinion is not contradicted by another doctor, it may be rejected only  
10 for clear and convincing reasons. Id. When a treating doctor's opinion is  
11 contradicted by another doctor, the ALJ must provide specific, legitimate  
12 reasons based on substantial evidence in the record for rejecting the treating  
13 doctor's opinion. Orn v. Astrue, 495 F.3d 625, 632 (9th Cir. 2007); Lester, 81  
14 F.3d at 830-31. However, "[t]he ALJ need not accept the opinion of any  
15 physician, including a treating physician, if that opinion is brief, conclusory,  
16 and inadequately supported by clinical findings." Thomas v. Barnhart, 278  
17 F.3d 947, 957 (9th Cir. 2002); accord Tonapetyan v. Halter, 242 F.3d 1144,  
18 1149 (9th Cir. 2001).

19 **C. Analysis**

20 The ALJ found that the significant physical limitations indicated by  
21 Dr. Puri were not supported by the medical evidence, including his own  
22 treatment notes. AR 20. Although Dr. Puri opined that Plaintiff's back pain  
23 would limit her to only one hour of standing or walking and two hours of  
24 sitting, the ALJ noted that her back examinations were largely unremarkable.  
25 Id. On July 20, 2009, Dr. Puri noted tenderness and limited range of motion in  
26 Plaintiff's lumbar spine, positive bilateral root tension signs, and decreased  
27 sensation in the skin of her left lower extremity and referred Plaintiff for an  
28 MRI. AR 15; see AR 677, 679-80. An MRI reportedly showed only a small

1 disc bulge with minimum dehydration and no stenosis. AR 15; see AR 678.  
2 On March 2, 2011, Dr. Puri noted only “minimal symptoms of pain” in  
3 Plaintiff’s lower back, reported that x-rays of her lumbar spine were  
4 unremarkable, and discharged her from his care. AR 726-27. On each of the  
5 five occasions in which Plaintiff complained to Dr. Puri of back pain, he  
6 treated her conservatively with medication. See AR 677-80, 728.

7 Moreover, although Dr. Puri imposed a significant lifting limitation, that  
8 restriction was attributed to Plaintiff’s right-shoulder surgery less than a month  
9 earlier and her then-recurrent shoulder-impingement syndrome. See AR 672-  
10 73, 685. Dr. Puri did not mention Plaintiff’s right shoulder in the notes from  
11 his final March 2, 2011 examination of her but observed, as the ALJ noted,  
12 that her left shoulder was “much better.” AR 20; see AR 728. As the ALJ  
13 noted, the record does not reflect her return to Dr. Puri or another orthopedic  
14 specialist for shoulder treatment, and Plaintiff testified at the April 25, 2012  
15 hearing that she could lift 20 pounds occasionally. AR 15, 17; see AR 76.

16 Because the ALJ found that Dr. Puri’s medical source statement was  
17 inconsistent with his own treatment notes, the ALJ properly rejected Dr. Puri’s  
18 opinion. See Connett v. Barnhart, 340 F.3d 871, 875 (9th Cir. 2003) (holding  
19 that doctor’s opinion was properly rejected when treatment notes “provide no  
20 basis for the functional restrictions he opined should be imposed on  
21 [claimant]”); Rollins v. Massanari, 261 F.3d 853, 856 (9th Cir. 2001) (holding  
22 that ALJ permissibly rejected treating physician’s opinion when opinion was  
23 inconsistent with treatment reports). In particular, the many limitations Dr.  
24 Puri attributed to Plaintiff’s low-back pain were inconsistent with his  
25 conservative treatment. See 20 C.F.R. §§ 404.1529(c)(3)(iv)-(v),  
26 416.929(c)(3)(iv)-(v); Warre v. Comm’r Soc. Sec. Admin., 439 F.3d 1001, 1006  
27 (9th Cir. 2006).

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1       Moreover, Dr. Puri's opinion that Plaintiff's low-back pain merited  
2 significant limitations was contradicted by other physicians. On January 17,  
3 2011, Dr. Navdeep Loomba reported that, although Plaintiff demonstrated  
4 tenderness and increased pain with range of motion, she had good range of  
5 motion, sensation, and strength in her extremities. AR 768. Plaintiff was  
6 negative for straight leg-raise test and demonstrated equal and intact pinprick  
7 sensation in her legs. Id. The ALJ properly relied on Dr. Loomba's opinion in  
8 discounting Dr. Puri's contradictory findings of a disabling back impairment.  
9 See Tonapetyan, 242 F.3d at 1149 (holding examining physician's opinion  
10 "alone constitutes substantial evidence, because it rests on his own  
11 independent examination of [claimant]").

12       The medical expert and state-agency physicians also opined that the  
13 record did not reflect disabling shoulder or back impairments. Dr. Samuel  
14 Landau testified at Plaintiff's administrative hearing that Plaintiff's MRI  
15 suggested only mild to moderate degenerative disc disease consistent with  
16 Plaintiff's age, and opined that she could perform light work. AR 15-16; see  
17 AR 48, 50. Because Dr. Landau testified at the hearing and was available for  
18 questioning, and because the ALJ found his opinion to be consistent with the  
19 evidence, AR 16, the ALJ was entitled to rely on his findings. See Morgan v.  
20 Comm'r of Soc. Sec. Admin., 169 F.3d 595, 600 (9th Cir. 1999) ("Opinions of  
21 a nonexamining, testifying medical advisor may serve as substantial evidence  
22 when they are supported by other evidence in the record and are consistent  
23 with it."); Andrews v. Shalala, 53 F.3d 1035, 1042 (9th Cir. 1995) (noting that  
24 greater weight may be given to nonexamining doctors who are subject to cross  
25 examination). The state-agency physicians who reviewed Plaintiff's records  
26 similarly assessed that she could perform at least light work. AR 19; see AR  
27 254-56, 687-700. Although the ALJ indicated that he relied principally on the  
28 findings of Dr. Landau, the medical expert, he was also entitled to rely on the



1 reviewing doctors' opinions. See Thomas, 278 F.3d at 957 ("The opinions of  
2 non-treating or non-examining physicians may also serve as substantial  
3 evidence when the opinions are consistent with independent clinical findings  
4 or other evidence in the record.").

5 Moreover, Plaintiff's treatment records show that she did not address her  
6 back and shoulder pain with the urgency or tenacity one would expect in the  
7 case of debilitating impairments. For instance, although she saw Dr. Puri in  
8 July 2009, months after her first shoulder surgery, complaining of right-  
9 shoulder and low-back pain, AR 679, she did not return until March 2010, and  
10 even then had not obtained MRIs as Dr. Puri had requested. AR 680. Dr. Puri  
11 again referred her for MRIs and recommended that she return in three weeks,  
12 but Plaintiff did not return for another three months. AR 678. Indeed, although  
13 Plaintiff emphasizes the length and extent of her treatment relationship with  
14 Dr. Puri, JS 6, the record reflects only a handful of visits over the course of 2 ½  
15 years, see AR 672-82, 728. Moreover, Plaintiff's own statements belied her  
16 claims of disabling back and shoulder pain. She mentioned neither when  
17 explaining why she stopped working, describing limitations on her daily  
18 activities, or completing a pain questionnaire. AR 71-72, 197-204, 221. At the  
19 hearing, she attributed her alleged limitations on lifting to an ovarian mass, not  
20 shoulder pain, and her limitations on standing to balance issues, not back pain.  
21 AR 76-77.

22 Plaintiff claims that the ALJ's finding that Dr. Puri's opinion is  
23 inconsistent with the medical evidence "without more does not rise to the  
24 required level of articulation" of specific and legitimate reasons, citing Embrey  
25 v. Bowen, 849 F.2d 418, 421 (9th Cir. 1988). JS at 5. In Embrey, the ALJ  
26 rejected a treating doctor's "detailed assessment" of the claimant's functional  
27 capacity – an assessment confirmed by three other physicians – by merely  
28 "list[ing] seriatim" and without citation the purportedly inconsistent objective

1 factors. See id. at 421-22. Here, by contrast, the ALJ met his burden to  
2 articulate specific, legitimate reasons for discounting Dr. Puri's opinion "by  
3 setting out a detailed and thorough summary of the facts and conflicting  
4 clinical evidence, stating his interpretation thereof, and making findings."  
5 Thomas, 278 F.3d at 957 (quoting Magallanes v. Bowen, 881 F.2d 747, 751  
6 (9th Cir. 1989)); see AR 15-21.

7 To the extent that Plaintiff asserts that the ALJ should have sought  
8 additional medical evidence from Dr. Puri, see JS at 7, an ALJ's duty to  
9 further develop the record is triggered only when the record contains  
10 ambiguous evidence or is inadequate to allow for proper evaluation of the  
11 evidence, Mayes v. Massanari, 276 F.3d 453, 459-60 (9th Cir. 2001). Here, the  
12 record was adequate to enable the ALJ to determine that Plaintiff did not  
13 suffer from a disabling shoulder or back impairment. See Brinegar v. Astrue,  
14 337 F. App'x 711, 712 (9th Cir. 2009).

15 In sum, the ALJ gave specific and legitimate reasons for not giving great  
16 weight to Dr. Puri's opinion as expressed in his December 1, 2010 medical  
17 source statement. Plaintiff's claim that the ALJ erred is accordingly rejected.

18 V.

19 **CONCLUSION**

20 For the reasons stated above, the decision of the Social Security  
21 Commissioner is AFFIRMED and the action is DISMISSED with prejudice.

22  
23 Dated: July 7, 2014



24  
25 DOUGLAS F. McCORMICK  
26 United States Magistrate Judge  
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28